AO 91 (Rev. 11/11) Criminal Complaint

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United States of America

UNITED STATES DISTRICT COURT

for the

Northern District of California

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FILED

Sep 04 2020

SUSAN Y. SOONG CLERK, U.S. DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN JOSE

Reset

CRIMINAL COMPLAINT I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of August 19, 2020 in the county of Santa Clara in the Northern District of California the defendant(s) violated: Code Section Offense Description 18 U.S.C. § 1344(2) Bank Fraud This criminal complaint is based on these facts: Please see attached affidavit of FBI Special Agent Michael Tomeno. ### Continued on the attached sheet. Approved as to form Section Offense Description ### Continued On the attached sheet. Approved as to form Section Simeon FBI Special Agent Michael Tomeno Printed name and title Sworn to before me over the telephone and signed by me pursuant to Fed.R.Crim.P 4.1 and 4(d) Date: September 3, 2020 **This criminal complaint is based on these facts: Sy Michael Tomeno Complaintant's signature	v. JOHN DOE))))	Case No. CR 20)-71268-M <i>A</i>	AG
I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of August 19, 2020 in the county of Santa Clara in the Northern District of California , the defendant(s) violated: Code Section Offense Description 18 U.S.C. § 1344(2) Bank Fraud This criminal complaint is based on these facts: Please see attached affidavit of FBI Special Agent Michael Tomeno. Complainant's signature Approved as to form Sectt Simeon FBI Special Agent Michael Tomeno Printed name and title Sworn to before me over the telephone and signed by me pursuant to Fed.R.Crim.P 4.1 and 4(d)	Defendant(s)			,			
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Date: September 3, 2020	by me pursuant to Fed	.R.Crim.P 4.	•		41	~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~	
	Date: September.	5, 2020				Judge's signature	weki_
City and state: San Jose, California VIrginia K. DeMarchi, U.S. Magistrate Judge	City and state:	San	Jose, California				e Judge

Attach

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Michael Tomeno, Special Agent with the Federal Bureau of Investigation ("FBI"), being duly sworn, hereby declare as follows:

Introduction and Agent Background

- 1. This affidavit is presented in support of a criminal complaint charging JOHN DOE ("DOE"), also known as R.V. and M.S., with a violation of Title 18, United States Code, Section 1344(2) Bank Fraud.
- 2. I am an "investigative or law enforcement officer of the United States" within the meaning of Section 2510(7) of Title 18, United States Code, that is, an officer of the United States who is empowered by law to conduct investigations, to execute search warrants, and to make arrests for offenses of Federal law. I have been employed as a Special Agent with the FBI since January 2019 and am currently assigned to the San Francisco Division.
- 3. The facts set forth in this affidavit are based upon my training and experience; my personal knowledge of this investigation; my review of documents and records related to this investigation; my review of public information; information provided by victims; and information provided to me by other agents and law enforcement officials who have assisted in this investigation and have experience investigating wire fraud and other complex financial crimes. Since this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that violations of United States law occurred.

Relevant Entities

- 4. At all times relevant to this complaint:
- a. eBay, Inc. ("eBay") is a multinational e-commerce corporation headquartered in San Jose, California, that facilitates consumer-to-consumer and business-to-consumer sales through its website. The eBay Motors site is a part of eBay's platform, and facilitates consumer-to-consumer and business-to-consumer sale of automobiles. According to *Forbes*, eBay Motors processed \$14 billion worth of vehicles and parts in 2009.

- b. Wells Fargo Bank, N.A. ("Wells Fargo") is a financial institution as defined in Title 18, United States Code, Section 1956(c)(7), and Title 31, United States Code, Section 5312. Wells Fargo is insured by the Federal Deposit Insurance Corporation.
- c. DOE has been acting as a "money mule" in an online automobile auction fraud scheme. "Money mule" is a term for an individual who receives money obtained illegally and sends the money to the individuals participating in the scheme. Typically, a money mule uses fake identities and fake identity documents to set up bank accounts. Money mules use fake identities to protect themselves from being identified in order to avoid prosecution and to continue activities when a previous identity is flagged for suspicious activity. Money mules are used by criminal actors to conceal the source of funds and to conceal the actors' participation in the scheme.

Applicable Law

5. Title 18, United States Code, Section 1344(2) makes it unlawful to knowingly execute, or attempt to execute, a scheme or artifice to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises.

The Scheme to Defraud

- 6. Since at least May 2019, DOE and his coconspirators, known and unknown, have participated in a scheme to defraud consumers by posting fraudulent online automobile auction advertisements on the automobile auction website eBay Motors and other well-known commercial websites. The fraudulent online automobile auction advertisements were designed to appear like authentic advertisements. The advertisements included information typical of legitimate automobile auctions and included pictures purported to depict the automobiles for sale. However, unlike in authentic auctions, the automobiles depicted in these fraudulent auctions were not owned by, or under the custody or control of, the purported sellers.
- 7. The purported sellers made statements to prospective buyers through the eBay messaging service and through email communications, causing prospective buyers to believe that the auctions were legitimate and inducing them to place bids on the auctions. However, in each case, the purported seller

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"seller," but received nothing in return.

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common identifying information such as the domain of the seller's email address, phone numbers, the Internet Protocol (IP) address used in posting the advertisement, and the language used in the

The various fraudulent advertisements are linked to a single scheme to defraud by

did not deliver the advertised vehicle after it was sold. Instead, the victim-buyer wired payment to the

advertisements and associated communications to victim-buyers. The primary commonality in this case

is the individual who received the payment wired by the victim-buyers: JOHN DOE.

- 9. In furtherance of this scheme to defraud, DOE used 7 different aliases to open 21 different bank accounts in the names of those false identities. DOE provided fraudulent information such as fake names and personal information on documents used to set up and access these bank accounts. FBI agents identified DOE as the same individual who opened and accessed each of these bank accounts by comparing photos and video footage of these various identities. Agents matched DOE to each of these identities through scanned copies of the passports he used as proof of identity during the creation of each account, as well as bank surveillance footage, which shows DOE accessing different accounts using different identities. Below is an example of DOE using false identification to open and access one of the bank accounts.
- On or about August 11, 2020, a bank account was opened at Wells Fargo in a. Mountain View, California, under the name R.V. using Czech Republic Passport Number ****9068, date of birth ** **, 1990. The account did not have any other individuals listed that were authorized to access the account. Between August 12 and August 17, 2020, a total of \$40,000 was wired to this account from three different individuals. Between August 12 and August 20, 2020, DOE withdrew //

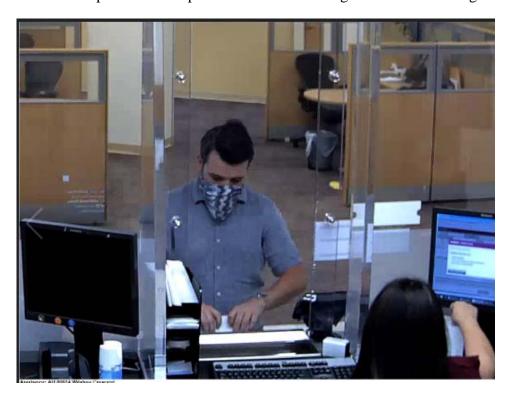
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approximately \$40,000 from the account using the alias R.V. This picture was captured of DOE accessing the account on August 14, 2020:



b. This picture was captured of DOE accessing the account on August 17, 2020:



c. These pictures were captured of DOE accessing the account on August 18, 2020:



10. In each instance in the scheme to defraud, shortly after the winner of an auction wired funds to a bank account, typically within days, DOE would withdraw the funds. Since May 2019, DOE has obtained at least \$382,496 in large wire transfers. These funds were either withdrawn by DOE or frozen by the bank due to suspicious activity. Even after certain bank accounts were frozen or closed, DOE continued to open and access new bank accounts. In contrast to activity typically observed in bank accounts used for legitimate personal or business purposes, all bank accounts opened by DOE had minimal activity other than the receipt of large wire transfers and large cash withdrawals. Also outside the norm, all 21 accounts were active for less than 12 months. This is all consistent with the activities of a money mule, and it appears that DOE set up the bank accounts with the sole purpose of acting as a money mule, and that approximately \$382,496 deposited into these bank accounts was sent by victims of the aforementioned fraudulent scheme. In every instance, DOE applied for a bank account or withdrew money from the bank under false pretenses.

August 19, 2020

11. On or about August 12, 2020, a bank account was opened at Wells Fargo in Santa Clara, California, under the name M.S. using Czech Republic Passport Number ****6182 and date of birth **
***, 1992. The account did not have any other individuals listed that were authorized to access the account.

12. On August 18, 2020, \$12,600 was wired to this account from another person. Between August 18 and August 21, 2020, DOE withdrew \$12,154.80 from the account using the alias M.S. These transactions included an August 19, 2020 withdrawal of \$11,780. These pictures were captured of DOE accessing the account on August 19, 2020:





Conclusion

13. Based upon the foregoing evidence, my training and experience, and the training and experience of agents and investigators involved in this investigation, there is probable cause to believe that JOHN DOE has violated 18 U.S.C. § 1344(2) – Bank Fraud. Accordingly, I respectfully request that the Court issue a criminal complaint and a warrant to arrest DOE.

Request for Sealing

14. I respectfully request that the Court issue an order sealing, until further order of the Court, the criminal complaint, arrest warrant, and all papers submitted in support of the complaint and arrest warrant, including this affidavit. I believe that disclosure at this time would seriously jeopardize the investigation and would allow DOE to change patterns of behavior, destroy evidence, or flee from prosecution. Accordingly, I believe that sealing is necessary to effectuate the orderly arrest of DOE and to guard against flight and destruction of evidence.

1	I declare under penalty of perjury that the above is true and correct to the best of my knowledge.
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3	/s/ Michael Tomeno MICHAEL TOMENO
4	Special Agent Federal Bureau of Investigation
5	rederal bureau of investigation
6	Sworn to before me over the telephone and signed by me pursuant to Fed. R. Crim. P. 4.1 and 4(d) on
7	this <u>3d</u> day of September 2020.
8	A1 - 12 - 04 - 0 - 04
9	Urgina K. De Marchi HON. MRGINIA K. DEMARCHI
10	United States Magistrate Judge
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DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT BY: ☒ COMPLAINT ☐ INFORMATION ☐ INDICTMENT Name of District Court, and/or Judge/Magistrate Location **SUPERSEDING** NORTHERN DISTRICT OF CALIFORNIA **OFFENSE CHARGED** -SAN JOSE DIVISION 18 U.S.C. § 1344(2) - Bank Fraud Petty **FILED** Minor **DEFENDANT - U.S -**Sep 04 2020 Misdemeanor JOHN DOE SUSAN Y. SOONG CLERK, U.S. DISTRICT COURT Felony NORTHERN DISTRICT OF CALIFORNIA DISTRICT COURT NUMBER PENALTY: Maximum Prison Term: 30 years SAN JOSE Maximum Fine: \$1,000,000 fine CR 20-71268-MAG Maximum Term of Supervised Release: 5 years Mandatory Special Assessment: \$100 **DEFENDANT** IS NOT IN CUSTODY **PROCEEDING** Has not been arrested, pending outcome this proceeding. Name of Complaintant Agency, or Person (& Title, if any) 1) X If not detained give date any prior summons was served on above charges FBI Special Agent Michael Tomeno person is awaiting trial in another Federal or State Court, 2) Is a Fugitive give name of court 3) Is on Bail or Release from (show District) this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District IS IN CUSTODY 4) On this charge this is a reprosecution of charges previously dismissed 5) On another conviction SHOW which were dismissed on motion Federal State DOCKET NO. 6) Awaiting trial on other charges U.S. ATTORNEY DEFENSE If answer to (6) is "Yes", show name of institution this prosecution relates to a If "Yes" Yes Has detainer L pending case involving this same give date been filed? defendant **MAGISTRATE** filed CASE NO. **DATE OF** Month/Day/Year prior proceedings or appearance(s) **ARREST** before U.S. Magistrate regarding this defendant were recorded under Or... if Arresting Agency & Warrant were not **DATE TRANSFERRED** Month/Day/Year Name and Office of Person David L. Anderson TO U.S. CUSTODY Furnishing Information on this form x U.S. Attorney ☐ Other U.S. Agency Name of Assistant U.S. This report amends AO 257 previously submitted Scott Simeon Attorney (if assigned) ADDITIONAL INFORMATION OR COMMENTS -PROCESS: SUMMONS NO PROCESS* ▼ WARRANT Bail Amount: No If Summons, complete following: * Where defendant previously apprehended on complaint, no new summons or Arraignment Initial Appearance warrant needed, since Magistrate has scheduled arraignment Defendant Address: Date/Time: Before Judge: Comments: